



28 SEP 2007

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In re Application of ODA et al.  
Application No.: 10/593,903  
PCT No.: PCT/JP04/03895  
Int. Filing: 22 March 2004  
Priority Date: None  
Attorney Docket No.: P71395US0  
For: TUBE ELECTROFORMING METHOD,  
TUBE BY ELECTROFORMING, AND THIN  
WIRE MATERIAL FOR PRODUCTION OF  
TUBES BY ELECTROFORMING

: DECISION ON  
: PETITION  
: UNDER 37 CFR 1.47(a)

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 23 July 2007, to accept the application without the signature of joint inventor, Tokuji Oda.

### BACKGROUND

On 22 September 2006 applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee and an executed declaration.

On 23 May 2007, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 23 July 2007, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor Tokuji Oda. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Tokuji Oda alleging that Mr. Oda refuses to sign the application.

### DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(g), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(g), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner satisfied Item (1), with payment of the petition fee. Item (2) is satisfied with the 25 January 2007 statement of Keso Kojima, CEO of Luzcom, Inc. (Assignee). Mr. Kojima states that on 19 September 2006, he "sent to Mr. Oda's residence the specification, amendments, patent declaration and assignment" in this application by registered letter. The letter was delivered on 22 September 2006. Mr. Oda did not reply. Mr. Kojima visited Mr. Oda's residence on the morning of 21 September 2006 and delivered a copy of the above mentioned papers by hand to Mr. Oda's family. No reply was received. This evidence is sufficient to conclude that Mr. Oda refuses to sign the application.

Item (3) is satisfied with a statement of the last known address of the non-signing inventor. Item (4) is satisfied by the declaration executed by the available joint inventor on his own behalf and on behalf of the non-signing joint inventor.

In sum, Petitioner has satisfied Items (1) - (4) above. For the reasons set forth above, the evidence submitted supports a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

### CONCLUSION

The petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 22 September 2006. The application has an international filing date of 22 February 2004 under 35 U.S.C. 363, and a date of 22 September 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.



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Dear Mr. Oda:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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